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CLEARINGHOUSE RULE 00-176

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. The rule should cite s. 227.11 (2) as providing rule making authority; it should not cite s. 292.15 (2) (ae) 3m. and (e), Stats., as these sections do not address the authority of the department to promulgate rules. The rule should cite all of s. 292.15, Stats., as being interpreted by the rule, since the rule interprets more than sub. (2) (ae) 3m. (See s. NR 754.13 (6), in particular.)

b. The rule does not seem to contain enough substance to warrant creating a separate chapter. The bulk of the rule could be collapsed into a single section, consisting of three subsections that correspond to ss. NR 754.07, 754.11 and 754.13, and placed in ch. NR 726. An additional section could be devoted to the subject of s. NR 754.15 since, as is noted below, this section appears to need considerable expansion and elaboration.

c. In s. NR 754.01, the first statutory citation should read “s. 292.15 (2) (ae) 3m. and (e), Stats.”

d. The introduction to s. NR 754.05 should read: “In this chapter:”. Also, since this section merely repeats statutory definitions, it seems unnecessary to include both a reference and a note fully explaining each definition. If the department believes that the note is helpful to the reader, then the entire statutory definition should be repeated in the body of the rule.

e. In s. NR 754.07, “all voluntary parties” should be replaced by “a voluntary party.”

f. Section NR 754.11 (1) should be written in the active voice: “A voluntary party seeking insurance under this chapter shall apply to the department on a form provided by”

g. If the department is to specify the forms to be used to apply for insurance, is the list of information to include in an application in s. NR 754.11 (2) necessary?

4. Adequacy of References to Related Statutes, Rules and Forms

Section NR 754.11 refers to a form. The requirements of s. 227.14 (3), Stats., should be met.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section NR 754.13 (1) to (5) should be written in the same tense as sub. (6), indicating that the conditions are met at the time the determination is made: “The voluntary party *has submitted*”; “The department *has approved*”; etc.

b. The first clause of s. NR 754.15 should be omitted, as should the comma following the word “property.” However, this provision does not elucidate at all the requirement of s. 292.15 (2) (ae) 4, Stats.--what maintenance and monitoring is required? Where are the requirements specified and how does a voluntary party know, in advance, what will be required?